

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TRUTEK CORP.,

Plaintiff,

v.

BLUEWILLOW BIOLOGICS, INC.;
ROBIN ROE 1 through 10, gender neutral
fictitious names, and; ABC
CORPORATION 1 through 10 (fictitious
names).

Defendants.

Case No. 2:21-cv-10312

Hon. F. Kay Behm

**DEFENDANT/COUNTER-PLAINTIFF BLUEWILLOW BIOLOGICS,
INC.’S UNOPPOSED MOTION FOR LEAVE TO FILE UNDER SEAL**

Defendant/Counter-Plaintiff BlueWillow Biologics, Inc. (“BlueWillow”) respectfully requests leave from the Court to file under seal materials designated as confidential that will be filed in connection with its concurrently filed Brief in Support of Motion for Summary Judgment (the “Summary Judgment Brief”), and the anticipated response and reply briefs.

In support of this Motion, BlueWillow states as follows:

1. Under Fed. R. Civ. P. 26(c), courts recognize that parties have an interest in avoiding the disclosure of sensitive commercial information. *United States v. Serta Associates, Inc.* 29 F.R.D. 136 (N.D. Ill. 1961); *Mannington Mills, Inc. v. Armstrong World Indus., Inc.*, 26 F.R.D. 525, 529 (D. Del. 2002). Disclosure of such information is presumed to be harmful. *Cytodyne Techs., Inc. v. Biogenic Techs., Inc.*, 216 F.R.D. 533, 535 (M.D. Fla. 2003).

2. Pursuant to the agreement of the parties, the materials and information sought to be sealed were designated as confidential or subject to an attorneys’ eyes-only designation when produced, consistent with the highly-sensitive nature of the information.

3. BlueWillow’s Summary Judgment Brief contains certain, confidential, proprietary, and technical information of BlueWillow concerning the formulation and composition of the accused NanoBio Protect product that is the subject of this action. In particular:

- a. The Declaration of Mansoor M. Amiji (“Amiji Decl.”) attached as Exhibit A to BlueWillow’s Summary Judgment Brief further contains, at Exhibit 3 thereto, confidential, proprietary, technical information of BlueWillow concerning the formulation and composition of the accused NanoBio Protect product.
- b. BlueWillow’s Summary Judgment Brief also contains information of Plaintiff/Counter-Defendant Trutek Corp. (“Trutek”) concerning licensees to the asserted U.S. Patent No. 8,163,802 (“the ‘802 Patent”). Trutek asserts that this includes confidential and highly sensitive business information of Trutek and that the non-party licensees have a confidentiality interest in such information and ensuring that it remains under seal.
- c. The Declaration of Liane M. Peterson (“Peterson Decl.”), attached as Exhibit B to BlueWillow’s Summary Judgment Brief also contains, and attaches as Exhibit 9 information of Trutek concerning licensees to the ‘802 Patent. Trutek asserts that this includes confidential and highly sensitive business information of Trutek and that the non-party licensees have a confidentiality interest in such information and ensuring that it remains under seal.

4. In addition to the foregoing examples, BlueWillow anticipates that material designated as confidential or attorneys’ eyes-only may need to be submitted in connection with Trutek’s response brief and BlueWillow’s reply.

5. Concurrent with this Motion, Blue Willow is filing a redacted version of its Motion for Summary Judgment and Blue Willow will submit the unredacted portions under seal upon leave of the Court. BlueWillow’s proposed redactions are minor in scope, and narrowly tailored only to the extent necessary to protect the legitimate confidentiality interests of the parties.

6. On March 28, 2023BlueWillow’s counsel has met and conferred by phone with counsel for Plaintiff/Counter Defendant Trutek, explained the nature

and bases of this Motion, and requested concurrence in the relief sought. While Trutek reserved its rights with respect to handling of information at trial, Trutek concurred in the relief sought in this Motion.

WHEREFORE, BlueWillow respectfully requests that the Court grant leave to file under seal the specific materials referenced in this Motion and any related confidential or attorney eyes only material that may be submitted in connection with a response brief and reply.

Dated: March 28, 2023

Respectfully submitted,

FOLEY & LARDNER LLP

/s/ Nicholas J. Ellis

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Plaintiff BlueWillow Biologics, Inc.*

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**BRIEF IN SUPPORT OF DEFENDANT/COUNTER-PLAINTIFF
BLUEWILLOW BIOLOGICS, INC.’S UNOPPOSED MOTION
FOR LEAVE TO FILE UNDER SEAL**

In support of its Motion for Leave to File Under Seal, Defendant/Counter-Plaintiff BlueWillow Biologics, Inc. relies on the statements contained in the Motion, the Federal Rules of Civil Procedure, and the pleadings and exhibits on file with the Court.

Dated: March 28, 2023

Respectfully submitted,

FOLEY & LARDNER LLP

/s/ Nicholas J. Ellis

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*Attorneys for Defendant/Counter-
Plaintiff BlueWillow Biologics, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that, on March 28, 2023, I filed the foregoing document and this Certificate of Service with the Court using the ECF system.

/s/ Nicholas J. Ellis